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Werner Grabher

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WASHINGTON, DC 20005

EXAMINER

HICKS, ROBERT J

ART UNIT

PAPER NUMBER

3728

NOTIFICATION DATE

DELIVERY MODE

05/16/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/552,661	Applicant(s) GRABHER, WERNER	
	Examiner ROBERT J. HICKS	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/13/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Information Disclosure Statement

2. The listing of references in the specification [Paragraph 4 Line 6 for EP 700838] [Paragraph 6 Line 5 for FR 917018] is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

3. **The disclosure is objected to because of the following informalities.**

Appropriate correction is required.

Regarding Paragraph 10 Line 2, the term "Claims" should be in lower case.

Regarding Paragraph 19 Line 4, the term "section 3a" could be written as "side 3a".

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “3a” has been used to designate side [Paragraph 18 Line 9], section [Paragraph 19 Line 4], and linear top [Paragraph 21 Line 6]. A section is not necessarily a side, and a section might not be linear.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. **Claims 1-16 are objected to because of the following informalities.**
Appropriate correction is required.

Regarding Claim 1 Line 2, the claim language could read "...optionally additionally comprising a can lid (7)"

Regarding Claim 1 Line 5, the claim language could read "...facing the can edge to **said** sealing membrane (5)" Claims 2-16 are objected to as being dependent upon objected base claim 1.

6. Claims 5 and 16 are objected to because of the following informality.

Appropriate correction is required.

Regarding Claim 5 Lines 2-3, the claim recites "...the adjacent part (1a) ..." in claim 1. The adjacent part is first claimed in claim 4. For purposes of this office action, claim 5 will depend from claim 4. Claim 16 is objected to as being dependent upon objected base claim 5.

7. Claim 6 is objected to because of the following informality: Claim 6 Lines 1-2 could read "...comprising **said** can lid (7)" Appropriate correction is required.

8. Claim 10 is objected to because of the following informality. Appropriate correction is required.

Regarding Claim 10 Line 2, the claim recites "...the adjacent part (1a) ..." in claim 2. The adjacent part is first claimed in claim 8. For purposes of this office action, claim 10 will depend from claim 8.

9. Claim 11 is objected to because of the following informality. Appropriate correction is required.

Regarding Claim 11 Line 2, the claim recites "...the adjacent part (1a) ..." in claim 3. The adjacent part is first claimed in claim 9. For purposes of this office action, claim 11 will depend from claim 9.

10. Claim 13 is objected to because of the following informality: Claim 13 Line 1 could read "...comprising **said** can lid (7)" Appropriate correction is required.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1 Lines 1-4, the claim recites "Can comprising can casing (1), can edge (8) and a membrane seal (5), optionally additionally comprising a lid (7), characterized in that it has, in the vicinity of the can edge, preferably at a distance of 1 to 10 mm from the can edge, a continuous, inward-facing bead (3) in the can casing" This claim language is indefinite as to what "it" is. Does the can casing, the membrane seal, the can lid, or another feature have the inward-facing bead? Claims 2-16 are rejected as being dependent upon rejected base claim 1.

13. Claims 5 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 5 Line 2, the claim recites "...the sealing membrane is connected to the bead and optionally to the adjacent part (1a)" This claims that the sealing membrane does not need to be connected to the adjacent part. Claim 5

depends from claim 4, in which Claim 4 Line 2 states "...the sealing membrane is additionally connected with a seal to a part (1a)" This statement claims that the sealing membrane is connected to the adjacent part. Is the sealing membrane connected to the adjacent part (1a) or not? Claim 16 is rejected as being dependent upon rejected base claim 5.

14. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 10 Lines 1-2, the claim recites "...the sealing membrane is connected to the bead and optionally to the adjacent part (1a)" This claims that the sealing membrane does not need to be connected to the adjacent part. Claim 10 depends from claim 8, in which Claim 8 Line 1-2 states "...the sealing membrane is additionally connected with a seal to a part (1a)" This statement claims that the sealing membrane is connected to the adjacent part. Is the sealing membrane connected to the adjacent part (1a) or not?

Regarding Claim 11 Lines 1-2, the claim recites "...the sealing membrane is connected to the bead and optionally to the adjacent part (1a)" This claims that the sealing membrane does not need to be connected to the adjacent part. Claim 11 depends from claim 9, in which Claim 9 Line 1-2 states "...the sealing membrane is additionally connected with a seal to a part (1a)" This statement claims that the sealing membrane is connected to the adjacent part. Is the sealing membrane connected to the adjacent part (1a) or not?

Regarding Claim 12 Lines 1-2, the claim recites "...the sealing membrane is connected to the bead and optionally to the adjacent part (1a)" This claims that the sealing membrane does not need to be connected to the adjacent part. Claim 12 depends from claim 4, in which Claim 4 Line 1-2 states "...the sealing membrane is additionally connected with a seal to a part (1a)" This statement claims that the sealing membrane is connected to the adjacent part. Is the sealing membrane connected to the adjacent part (1a) or not?

15. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 12, the claim is the same as claim 5. Both claims 5 and 12 depend from claim 4. See MPEP 2173.05(n). Claim 12 should be cancelled.

16. Claims 3, 9, 11, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "...the bevel ..." in claim 1. There is insufficient antecedent basis for this limitation in the claim, because there is no initial statement of a bevel before this first mentioning. Claims 9, 11, and 14 are rejected as being dependent upon rejected base claim 3.

17. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "...the bevel ..." in claim 2. There is insufficient antecedent basis for this limitation in the claim, because there is no initial statement of a bevel before this first mentioning.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

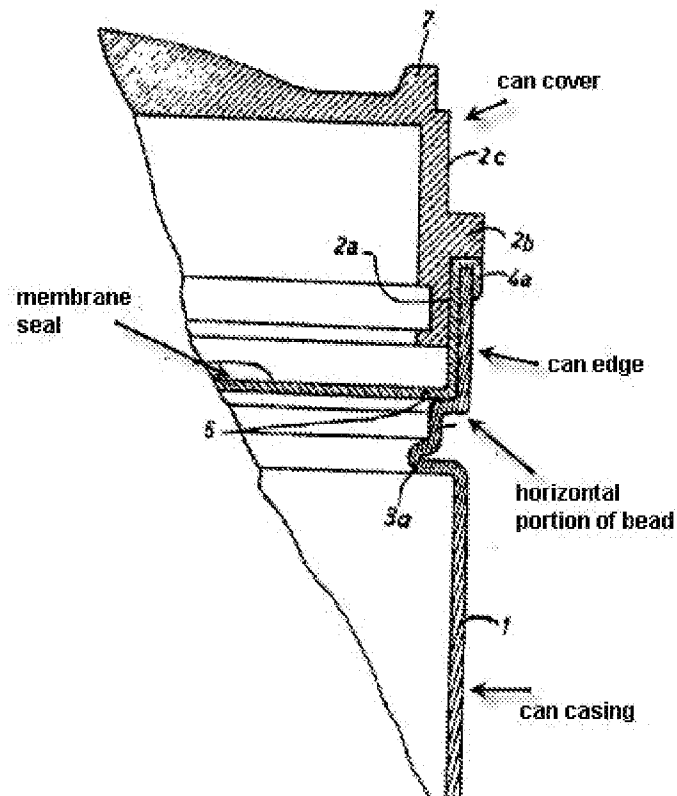
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

20. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal Beaupaire S.A. (GB 1,228,203) [Boxal] in view of Official Notice.

Regarding Claim 1, the publication to Boxal – a sealed container – discloses a can [Fig. 1] comprising can casing [1], can edge [Fig. 3b] and a membrane seal [4], optionally additionally comprising a can lid [2], characterized in that it has, in the vicinity of the can edge, a continuous, inward-facing bead [3a] in the can casing, which bead is connected with a seal at its top [Page 2 Lines 67-71] facing the can edge to a sealing

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membrane in the form of a tear-open foil by adhesive bonding or sealing [Page 2 Lines 72-74], the top of the bead facing the can edge - considered in the case of an upright can - running horizontally inwards [Fig. 3b]. The examiner notes the uppermost portion of the bead is horizontally inward from the can edge.



Boxal discloses the claimed invention except for the location of the inward bead being between one and ten millimeters from the can edge. Boxal does disclose that "The membrane is however retained in its downward movement by the collar **3a** formed at the foot of rib **3**" [Boxal, Page 2 Lines 48-50]. The examiner is taking Official Notice as the location of the collar at the foot of the rib can be within 1 and 10 millimeters, or at another distance. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the location of the collar be

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placed between 1 and 10 millimeters from the top edge of the can, in order to maintain the membrane in its sealing position for the can, and since it has been held that rearranging parts of an invention involves only routine skill in the art. See *In re Japikse*, 86 USPQ 70.

Regarding Claim 2, Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 1 above; further, the combination discloses the bead has a horizontal top - in the case of an upright can - and an oblique, optionally curved, bottom [**Boxal**, Fig. 3b]. The examiner notes the lower portion of the collar has a curved bottom.

21. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice as applied to claim 2 above, and further in view of von Holdt, Sr. et al. (5,913,446) [von Holdt].

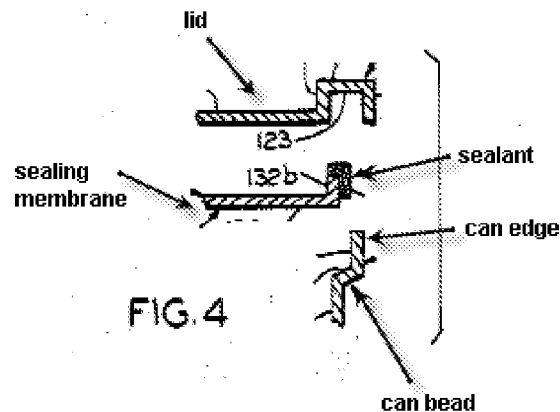
Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 2 above. The Boxal and Official Notice combination does not expressly disclose that the bevel is about 45°; however, the patent to von Holdt – a container with lid – discloses a bevel [**von Holdt**, 202] that is about 45° [**von Holdt**, Col. 6 Lines 62-66]. The examiner is using von Holdt as an evidential reference to teach the bevel of a sidewall to be approximately 45°. Boxal and von Holdt are both from the art of containers with container edges with beads closed by lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sidewall of the Boxal and Official Notice combination container to have a bevel of approximately 45°, as

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suggested by von Holdt, as “The general purpose of the undercut is to produce hoop strength” [**von Holdt**, Col. 6 Lines 49-50].

22. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice as applied to claim 2 above, and further in view of Helms (4,401,231).

Regarding Claim 8, Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 2 above. The Boxal and Official Notice combination does not expressly disclose that the sealing membrane is additionally connected with a seal to a part of the can casing which is adjacent to the top of the bead. However, the patent to Helms - a container and closure sealing member - discloses the sealing membrane [**Helms**, 130] is additionally connected with a seal [**Helms**, 134] to a part [**Helms**, 116] of the can casing [**Helms**, B1] which is adjacent to the top of the bead [**Helms**, Figs. 3 and 4]. The examiner notes the sealing member is attached by the seal [**Helms**, 134] along the vertical portion of the can edge. Boxal and Helms are both from the art of containers with sealing membranes closed also by can lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sealant along the side of the sealing member in the Boxal and Official Notice combination container to be located along the vertical portion of the can edge to seal the sealing membrane to the can, as suggested by Helms, so that the sealing member can properly attach to the can for proper sealing [**Helms**, Col. 1 Lines 46-52].



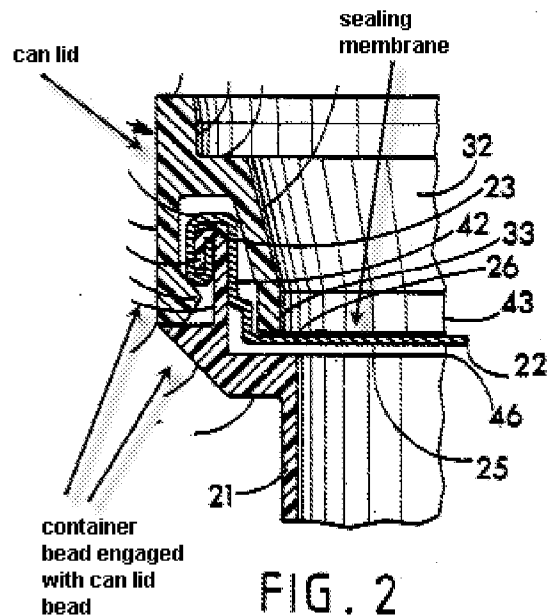
Regarding Claim 10, Boxal in view of Official Notice in view of Helms discloses all the limitations substantially as claimed, as applied to claim 8 above; further, the combination discloses the sealing membrane is connected to the bead and optionally to the adjacent part of the can casing with a seal by adhesive bonding or heat sealing [Helms, 134, Col. 2 Lines 44-48]. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sealant along the side of the sealing member in the Boxal and Official Notice combination container to be located along the vertical portion of the can edge to seal the sealing membrane to the can, as suggested by Helms, so that the sealing member can properly attach to the can for proper sealing [Helms, Col. 1 Lines 46-52].

23. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice as applied to claim 2 above, and further in view of Farrell et al. (4,940,158) [Farrell].

Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 2 above. The Boxal and Official Notice combination does

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not expressly disclose said can lid gripping over the can edge, characterized in that the can lid at least partly engages the bead by means of an edge bead. However, the patent to Farrell – a container and seam ring – discloses said can lid [**Farrell**, 27] gripping over the can edge [**Farrell**, 47 on seam 40, Col. 8 Lines 28-35], characterized in that the can lid at least partly engages the bead [**Farrell**, 49] by means of an edge bead [**Farrell**, 48]. The examiner notes the skirt [**Farrell**, 30] and ledge [**Farrell**, 47] grip over the can edge on the double seam. In addition, the can lid bead [**Farrell**, 48] touches or engages the bead on the can [**Farrell**, 49] to prevent unwanted access. Boxal and Farrell are both from the art of containers with sealing members closed by lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the lid in the Boxal and Official Notice combination container to grip over the can edge, and to have the can lid bead engage the bead on the container, as suggested by Farrell, in order for the user not to be able to access the container [**Farrell**, Col. 8 Lines 33-35 and 49-53].



24. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice as applied to claim 1 above, and further in view of von Holdt.

Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 1 above. The Boxal and Official Notice combination does not expressly disclose that the bevel is about 45°; however, the patent to von Holdt discloses a bevel [von Holdt, 202] that is about 45° [von Holdt, Col. 6 Lines 62-66]. The examiner is using von Holdt as an evidential reference to teach the bevel of a sidewall to be approximately 45°. Boxal and von Holdt are both from the art of containers with container edges with beads closed by lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sidewall of the Boxal and Official Notice combination container to have a bevel of approximately 45°, as suggested by von Holdt,

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as “The general purpose of the undercut is to produce hoop strength” [**von Holdt**, Col. 6 Lines 49-50].

25. Claims 9 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice in view of von Holdt as applied to claim 3 above, and further in view of Helms.

Regarding Claim 9, Boxal in view of Official Notice in view of von Holdt discloses all the limitations substantially as claimed, as applied to claim 3 above. The Boxal, Official Notice, and von Holdt combination does not expressly disclose that the sealing membrane is additionally connected with a seal to a part of the can casing which is adjacent to the top of the bead. However, the patent to Helms discloses the sealing membrane [**Helms**, 130] is additionally connected with a seal [**Helms**, 134] to a part [**Helms**, 116] of the can casing [**Helms**, B1] which is adjacent to the top of the bead [**Helms**, Figs. 3 and 4]. The examiner notes the sealing member is attached by the seal [**Helms**, 134] along the vertical portion of the can edge. Boxal and Helms are both from the art of containers with sealing membranes closed also by can lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sealant along the side of the sealing member in the Boxal, Official Notice, and von Holdt combination container to be located along the vertical portion of the can edge to seal the sealing membrane to the can, as suggested by Helms, so that the sealing member can properly attach to the can for proper sealing [**Helms**, Col. 1 Lines 46-52].

Regarding Claim 11, Boxal in view of Official Notice in view of von Holdt in view of Helms discloses all the limitations substantially as claimed, as applied to claim 9 above; further, the combination discloses the sealing membrane is connected to the bead and optionally to the adjacent part of the can casing with a seal by adhesive bonding or heat sealing [**Helms**, 134, Col. 2 Lines 44-48]. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sealant along the side of the sealing member in the Boxal, Official Notice, and von Holdt combination container to be located along the vertical portion of the can edge to seal the sealing membrane to the can, as suggested by Helms, so that the sealing member can properly attach to the can for proper sealing [**Helms**, Col. 1 Lines 46-52].

26. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice in view of von Holdt as applied to claim 3 above, and further in view of Farrell.

Boxal in view of Official Notice in view of von Holdt discloses all the limitations substantially as claimed, as applied to claim 3 above. The Boxal, Official Notice, and von Holdt combination does not expressly disclose said can lid gripping over the can edge, characterized in that the can lid at least partly engages the bead by means of an edge bead. However, the patent to Farrell discloses said can lid [**Farrell**, 27] gripping over the can edge [**Farrell**, 47 on seam 40, Col. 8 Lines 28-35], characterized in that the can lid at least partly engages the bead [**Farrell**, 49] by means of an edge bead [**Farrell**, 48]. The examiner notes the skirt [**Farrell**, 30] and ledge [**Farrell**, 47] grip over the can

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edge on the double seam. In addition, the can lid bead [Farrell, 48] touches or engages the bead on the can [Farrell, 49] to prevent unwanted access. Boxal and Farrell are both from the art of containers with sealing members closed by lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the lid in the Boxal, Official Notice, and von Holdt combination container to grip over the can edge, and to have the can lid bead engage the bead on the container, as suggested by Farrell, in order for the user not to be able to access the container [Farrell, Col. 8 Lines 33-35 and 49-53].

27. Claims 4, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice as applied to claim 1 above, and further in view of Helms.

Regarding Claim 4, Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 1 above. The Boxal and Official Notice combination does not expressly disclose that the sealing membrane is additionally connected with a seal to a part of the can casing which is adjacent to the top of the bead. However, the patent to discloses the sealing membrane [Helms, 130] is additionally connected with a seal [Helms, 134] to a part [Helms, 116] of the can casing [Helms, B1] which is adjacent to the top of the bead [Helms, Figs. 3 and 4]. The examiner notes the sealing member is attached by the seal [Helms, 134] along the vertical portion of the can edge. Boxal and Helms are both from the art of containers with sealing membranes closed also by can lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation

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within the prior art, to modify the sealant along the side of the sealing member in the Boxal and Official Notice combination container to be located along the vertical portion of the can edge to seal the sealing membrane to the can, as suggested by Helms, so that the sealing member can properly attach to the can for proper sealing [**Helms**, Col. 1 Lines 46-52].

Regarding Claims 5 and 12, Boxal in view of Official Notice in view of Helms discloses all the limitations substantially as claimed, as applied to claim 4 above; further, the combination discloses the sealing membrane is connected to the bead and optionally to the adjacent part of the can casing with a seal by adhesive bonding or heat sealing [**Helms**, 134, Col. 2 Lines 44-48]. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sealant along the side of the sealing member in the Boxal and Official Notice combination container to be located along the vertical portion of the can edge to seal the sealing membrane to the can, as suggested by Helms, so that the sealing member can properly attach to the can for proper sealing [**Helms**, Col. 1 Lines 46-52].

28. Claims 15 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice in view of Helms as applied to claims 4 and 5 above, respectively, and further in view of Farrell.

Boxal in view of Official Notice in view of Helms discloses all the limitations substantially as claimed, as applied to claims 4 and 5 above, respectively. The Boxal, Official Notice, and Helms combination does not expressly disclose said can lid gripping

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over the can edge, characterized in that the can lid at least partly engages the bead by means of an edge bead. However, the patent to Farrell discloses said can lid [Farrell, 27] gripping over the can edge [Farrell, 47 on seam 40, Col. 8 Lines 28-35], characterized in that the can lid at least partly engages the bead [Farrell, 49] by means of an edge bead [Farrell, 48]. The examiner notes the skirt [Farrell, 30] and ledge [Farrell, 47] grip over the can edge on the double seam. In addition, the can lid bead [Farrell, 48] touches or engages the bead on the can [Farrell, 49] to prevent unwanted access. Boxal and Farrell are both from the art of containers with sealing members closed by lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the lid in the Boxal, Official Notice, and Helms combination container to grip over the can edge, and to have the can lid bead engage the bead on the container, as suggested by Farrell, in order for the user not to be able to access the container [Farrell, Col. 8 Lines 33-35 and 49-53].

29. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boxal in view of Official Notice as applied to claim 1 above, and further in view of Farrell.

Boxal in view of Official Notice discloses all the limitations substantially as claimed, as applied to claim 1 above. The Boxal and Official Notice combination does not expressly disclose said can lid gripping over the can edge, characterized in that the can lid at least partly engages the bead by means of an edge bead. However, the patent to Farrell discloses said can lid [Farrell, 27] gripping over the can edge [Farrell,

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47 on seam 40, Col. 8 Lines 28-35], characterized in that the can lid at least partly engages the bead [Farrell, 49] by means of an edge bead [Farrell, 48]. The examiner notes the skirt [Farrell, 30] and ledge [Farrell, 47] grip over the can edge on the double seam. In addition, the can lid bead [Farrell, 48] touches or engages the bead on the can [Farrell, 49] to prevent unwanted access. Boxal and Farrell are both from the art of containers with sealing members closed by lids. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the lid in the Boxal and Official Notice combination container to grip over the can edge, and to have the can lid bead engage the bead on the container, as suggested by Farrell, in order for the user not to be able to access the container [Farrell, Col. 8 Lines 33-35 and 49-53].

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: see PTO-892 Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. HICKS whose telephone number is (571)270-1893. The examiner can normally be reached on Monday-Friday, 8:30 AM - 5:00 PM, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Robert J Hicks/
Examiner, Art Unit 3728